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Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network

CC Docket No. 95-115

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SUMMARY*

The comments filed in response to the NPRM again demonstrate the need for comprehensive reform of the current universal service support mechanisms instead of adopting new policies and mandates that can only increase the cost of universal service, perhaps unnecessarily. The current Commission policy on disconnection for non-payment has worked well while, as actual experience has shown, the proposed opposite policy has been overly expensive and not nearly as effective as other LEC actions aimed at increasing subscribership. In contrast to that real world experience, the commentators that support the proposed policy have not provided actual data that demonstrates that the proposed policy would result in a narrowly-targeted, cost-effective, competitively-neutral increase in subscribership, while not further burdening LEC rates with implicit support. Moreover, the costs of multiple balance billing that would be required to implement the proposed disconnect rule are largely ignored, and the benefits assumed. The Commission should not mandate a new approach with a record that fails to demonstrate that the costs of the proposed policy is exceeded by the benefits.

The Commission should instead continue its current policy. Current LEC offerings are available for those subscribers who need help in controlling toll usage, with new mechanisms being developed by the LECs and the rest of the industry to further

* The abbreviations used in this Summary are as defined in the main text.

address customer and business needs. Lifeline and Link-Up should be expanded and targeted to further help those that cannot afford local telephone service.

The Commission should reject any suggestion that the subscriber line charge be waived for those with toll restriction services, as well as all unrelated extraneous suggestions.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of the Commission's)	
Rules and Policies to Increase)	CC Docket No. 95-115
Subscribership and Usage of the)	
Public Switched Network)	

REPLY COMMENTS OF
SOUTHWESTERN BELL TELEPHONE COMPANY

Southwestern Bell Telephone Company ("Southwestern Bell" or "SWBT"), by its attorneys, files these Reply Comments to the various initial comments that were filed in response to the Commission's Notice of Proposed Rulemaking ("NPRM"). The Commission should heed the vast majority of commentors and not adopt any regulatory measures or policy changes in a costly attempt to increase subscribership.

I. RATHER THAN THE NARROW FOCUS OF THIS PROCEEDING, THE COMMISSION SHOULD FOCUS ON REFORMING UNIVERSAL SERVICE

MCI is correct in stating that rather than establishing new funds or mandated policies on the federal level that have proven on the State level to increase the cost of providing telecommunications services, regulators need to focus on universal service reform.¹ SWBT urges the Commission to refrain from ordering costly mandates that will only raise the cost of universal service, perhaps unnecessarily, prior to addressing this area in a comprehensive proceeding. SWBT continues to urge the Commission to allow LECs to rid their interstate access rate

¹ MCI Comments, Summary.

structures of implicit support through a complete overhaul of universal service funding. Instead of acting in this proceeding with its limited scope, the Commission should immediately open a comprehensive proceeding to address universal service as a whole in today's rapidly changing, competitive environment.

Moreover, through the process of reforming universal service, the Commission should determine new ways to measure subscribership since competitors do not have the same reporting requirements. The Commission should also determine what its role will be in the new competitive environment with respect to universal service and subscribership.

II. THERE IS NO NEED FOR REGULATORY ACTION OR CHANGES TO COMMISSION SUBSCRIBERSHIP POLICIES

Although no commentor dissented from the objectives of maintaining end-user access to universally available service and a high level of subscribership, a majority of the parties questioned the need for this proceeding. There was a broad consensus that the Commission should not mandate measures in an attempt to increase subscribership, nor alter its longstanding policy regarding disconnection for non-payment of interstate charges.² SWBT agrees with those parties and remains convinced that the proposal to prohibit disconnection for non-payment is a

² LDDS WorldCom, p. 3; TDS Telecom ("TDS"), p. 2; Montana Independent Telecommunications Systems, Inc., p. 3; The Competitive Telecommunications Association, pp. 1-2; OAN Services, Inc., pp. 3-4; United States Telephone Association ("USTA"), p. 3; Rochester Telephone Corp., pp. 2-3.

"solution looking for a problem." The current Commission policies and industry practices have served the public interest and should remain undisturbed.

If the Commission nevertheless decides to mandate new approaches to subscribership, it must at least ensure that each approach is narrowly targeted, competitively neutral and cost-effective³ in order to avoid upward pressure on rates.⁴ Based upon actual State experience, the proposed disconnection rule fails even that minimal test. The experience of Bell Atlantic conclusively demonstrates that the proposed rule is a very expensive means of addressing the issue that the Commission has targeted. As Bell Atlantic details, some of the more complex and expensive State programs such as the one implemented in Pennsylvania have not been as successful as they appear, while some of the simplest and least expensive programs have been the most successful.⁵ Bell Atlantic legitimately compares the high-cost program in Pennsylvania⁶ with unimpressive subscribership

³ In addition, any such mandate should also be equally applicable to all providers and must not further burden LEC rate structures with yet more implicit support. SWBT, p. 5.

⁴ TDS, p. 10.

⁵ Bell Atlantic, pp. 2-3.

⁶ Bell Atlantic reports that as a result of the Pennsylvania program it has experienced a nearly 400% increase in uncollectibles and a sharp rise in administrative expenses. *Id.*, pp. 2-3. Bell Atlantic also reports that under a similar program in Delaware the uncollectibles have increased significantly while the subscribership has remained flat. *Id.*, p. 5; GTE, pp. 35-38.

gains to the much lower-cost program in Virginia with impressive subscribership gains.⁷

In this proceeding, the actual experience of LECs that have been forced to adopt a "no disconnection" rule and have documented results and attendant costs must be given great weight, especially in comparison to those parties pushing for others to be required to adopt new costly programs based upon theories, conjecture, or speculation. Reliable evidence indicating increased subscribership should be the litmus test for any regulatory action in this proceeding, especially if that action entails significant incremental cost. This important theme is stressed in USTA's Comments.⁸ The only reliable evidence is that using a "no disconnection" policy to increase subscribership is costly and may not be a "solution" at all.

Based upon actual experience, the benefits associated with the proposed disconnection rule far outweigh associated costs. Other, more cost-effective alternatives are clearly available, and each State should be allowed to explore those alternatives and other possibilities.

III. THE COSTS OF MULTIPLE BALANCE BILLING SHOULD NOT BE UNDERESTIMATED, NOR THE BENEFITS ASSUMED

Among the costs of implementing a new disconnection mandate would be the need for each customer's account and bill to have

⁷ Similar experience in Pennsylvania is echoed by GTE. GTE, pp. 35-36.

⁸ USTA, p. 8.

multiple balances. Currently, LECs typically provide a streamlined, single-balance bill in accordance with customer market research which shows that customers clearly favor that approach.⁹ The proposed mandate would thus be customer "unfriendly." Implementation of a multiple billing and payment system will not increase subscribership, will result in confusion and dissatisfaction for those customers that pay their bills, and will increase costs to local exchange carriers.

Commentors such as the Pennsylvania Public Utility Commission ("PaPUC") ignore the substantial costs associated with implementing multiple balance billing. Maine's Public Utility Commission goes so far as to suggest that the Commission require every LEC to implement a multiple balance billing and payment system, with each State commission then determining if and how that functionality might be used. This proposed approach ignores the fact that each State might want a different billing approach and might even take a wholly different approach to increasing subscribership. The cost to provide, as some have suggested, the customer with multiple balances and payment algorithms for partial payment would be extraordinarily expensive. SWBT thus strongly opposes any suggestion that expenses should be incurred and customers further burdened before a decision is made on whether to use such a billing system.

⁹ SWBT does not mean to imply that customers are not aware of who is charging what. In SWBT's billing and customer service systems and on the customer's bill, each provider appears and has its charges itemized and summarized. The subscriber is however presented with a single balance due for all charges.

The suggestion made by the Public Utility Law Project of New York ("PULP") that the four billing and collection "buckets" used in New York be used everywhere else¹⁰ suffers from the same deficiencies. PULP provides no information about the additional costs to LECs for implementing its unique billing and collection structure and has made no attempt to demonstrate that there has been a notable improvement in subscribership in New York since 1992 (when the "buckets" were introduced) to justify those additional costs. Merely providing suggestions that would be costly to implement without providing empirical data demonstrating purported benefits is not helpful. Where actual data is available, any suggestion must be evaluated by comparing its demonstrated benefits to its associated costs.¹¹ As the Indiana Utilities Regulatory Commission correctly concludes, "this discussion needs to include hard numbers about the costs of implementing this billing system before any decisions should or can be reached."¹²

¹⁰ PULP, pp. 6, 7.

¹¹ SWBT also wonders about PULP's claim pointing to competition for the business of debtors. PULP, p. 10. It is difficult to imagine that, even in a competitive environment, service providers will be anxiously seeking out customers who do not pay their bills.

¹² Indiana Utility Regulatory Commission ("IndURC"), pp. 4, 5.

IV. THE COMMISSION SHOULD NOT MANDATE A NATIONWIDE "SOLUTION"

SWBT firmly believes that no need has been demonstrated for new regulatory mandates in an attempt to increase subscribership. If the comments supporting the need for regulatory action demonstrate anything, it is that "one size does not fit all" and that no approach is appropriate nation-wide. Indeed, the Commission's apparent dissatisfaction arguably springs from just such a premise -- the Commission's uniform policy is not perceived to have worked, so a different nation-wide mandate should be adopted. SWBT rejects that conclusion. The current 94% penetration rate is a remarkable achievement resulting from the interplay of regulatory policy and industry practice, and should not be discounted as ineffectual. Disrupting the current structure with the adoption of the proposed mandate would be adopting a "solution looking for a problem." SWBT thus simply cannot agree with, for example, the comments of PULP which suggest that the Commission should adopt the procedures used in New York nationwide.¹³ SWBT instead agrees with those parties who urge the Commission not to attempt to prescribe uniform national requirements as proposed in the NPRM.¹⁴

Further, commentators that urge the Commission to adopt a nationwide disconnection rule miss the mark. The disconnection issue raised is whether the Commission should prohibit denial of

¹³ PULP, p. 13.

¹⁴ Bell Atlantic, pp. 2, 5.

service due to the failure to pay interstate charges.¹⁵ The Commission did not propose any rule or policy addressing the failure to pay intrastate charges and thus, by clear implication, the exclusive jurisdiction of the States in that area remains. The Commission does not sit in judgment of the individual State commission actions, and should not attempt to dictate to the States how customers with unpaid intrastate charges are to be treated.

Inasmuch as the Commission has not proposed to preempt the States on intrastate charges, adopting the proposed interstate disconnection rule will be ineffective if the customer also has unpaid intrastate charges and the State commission permits disconnection on that ground alone. The Commission should continue its current policy instead of adopting such a rule with its substantial associated costs and possible ineffective results.

V. LIFELINE AND LINKUP BENEFITS SHOULD BE MADE AVAILABLE TO THOSE WHO OTHERWISE CANNOT AFFORD SERVICE

SWBT agrees with the Telephone Elections Corporation ("TEC") and others that the Commission could increase subscribership by expanding and targeting Link Up America and LifeLine Assistance

¹⁵ *Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network*, CC Docket No. 95-115, Notice of Proposed Rulemaking, released July 20, 1995, at para. 31 ("we seek comment on prohibiting any common carrier from interrupting or disconnecting . . . local exchange service for failure to pay interstate long-distance charges.").

programs to those who are least able to afford telephone service.¹⁶ However, such programs should be narrowly targeted to low-income individuals. The funding structures for targeted assistance benefits should be examined and modified to enhance the provision and promotion of vibrant support programs.¹⁷ In every case, care should be taken to ensure that the benefits to Lifeline and LinkUp participants are measured against the cost of providing these benefits.¹⁸

VI. THE COMMISSION SHOULD ENCOURAGE CARRIERS TO DEPLOY INNOVATIVE SERVICES TO KEEP END-USERS ON THE NETWORK

SWBT firmly believes that the Commission should allow carriers to develop innovative ways to help consumers control their toll usage to avoid being disconnected due to unpaid toll charges. SWBT and other carriers commented that they have already implemented a number of solutions to help consumers control their toll usage.¹⁹ SWBT, for example, offers solutions such as Toll Restriction and Prepaid Calling Cards, and has new software under development called TRIMS which will establish

¹⁶ TEC, pp. 10-11; Colorado Public Utilities Commission, p. 3; GTE, pp. 45-47.

¹⁷ Notwithstanding Commission action or even those of State commissions, it can be the case (and is in several SWBT states) that the funding of Lifeline programs is specified in State statutes and thus beyond the purview of regulation.

¹⁸ See, e.g., the generous benefits elucidated by PULP on pp. 13 and 15.

¹⁹ Ameritech p. 5; U S West Communications, Inc., p. 5; BellSouth Telecommunications, Inc., p. 6; GTE, pp. 21, 24.

limits on the amount of toll for customers who have difficulty controlling and paying their toll charges. Systems such as TRIMS will have more impact and are far better solutions in accomplishing the Commission's objectives than the various proposals to change the disconnection policy, or adopt new billing systems and partial payment schemes. SWBT joins those parties that urge the Commission to allow the competitive markets to develop and deploy services that will promote universal service.²⁰ That process and the marketplace innovations it spawns to address subscribership issues should be relied upon and encouraged by the Commission because clearly voluntary solutions such as those offered by SWBT are preferable to federal mandates.

VII. SUBSCRIBER LINE CHARGES SHOULD NOT BE WAIVED IF TOLL RESTRICTION IS USED

In its comments, the Pennsylvania Public Utilities Commission ("PaPUC") advocated examining the possibility of waiving the subscriber line charge ("SLC") for those customers who have subscribed to toll restriction. As posed by the Commission, the concern was that customers were being disconnected for failure to pay usage-sensitive interstate toll charges, not for a failure to pay the flat-rate SLC. There is no apparent linkage between the customer subscribing to toll restriction and the waiver of the SLC. This suggestion would thus appear to be a proposal not targeted to either the

²⁰ Time Warner Communications Holdings, Inc., p. 12; Teleport Communications Inc., p. 3.

responsible use by customers of toll services or keeping customers on the public network notwithstanding the failure to pay interstate toll charges. As many commentators cautioned, the Commission must ensure that any action taken is targeted to the issue identified.

More generally, SWBT questions extending the SLC waiver beyond customers who show a demonstrated financial need by participation in the Lifeline program. Today, waivers from paying the flat-rated SLC are provided only to those with a demonstrated need. The Commission should be cautious of breaking that association.

More fundamentally, however, the PaPUC's suggestion indicates a misunderstanding of the logic and economics behind the SLC. As currently structured, the SLC partially recovers the interstate allocation of non-traffic sensitive costs incurred by the LEC for providing the customer access to the network.²¹ Accordingly, the flat-rated SLC is applied regardless of whether an individual customer actually places or receives any interstate

²¹ See MTS and WATS Market-Structure, CC Docket No. 78-72, Phase I, Third Report and Order, 93 F.C.C.2d 241, 278, at para. 121:

A subscriber who does not use the subscriber line to place or receive calls imposes the same NTS costs as the subscriber who does use the line. A subscriber who does not make local calls would normally pay a flat fee for the exchange portion of such costs. Imposing a flat charge for the interstate portion of those costs is equally reasonable. Any other procedure violates the general principle that costs should be recovered from the cost-causative rate payer whenever it is possible to do so.

calls.²² Formalizing the customer's decision not to place certain types of interstate toll calls does not eliminate that capability, nor result in any cost avoidance by the LEC. Indeed, those customers can still receive sent-paid toll calls, and can still place interstate 1+800 toll-free calls and calls using prepaid calling cards.²³ The underlying loop-related costs do not vary in relation to the number of toll calls that customer receives or places; likewise, the loop-related costs do not vary based on the method of payment or the person that pays for the calls. Therefore, waiving the SLC for subscribers of toll restriction overlooks the economic rationale behind the SLC's cost recovery.

VIII. THE COMMISSION SHOULD IGNORE EXTRANEOUS COMMENTS

Several commentators have chosen to use this proceeding to make comments or push agendas unrelated to increasing subscribership. For example, the State Consumer Advocates of Delaware, Florida, Maine and Missouri claim some measure of concern over the billing and collection industry and the competition in that non-Title II market. The Commission should be more concerned, however, about ensuring that LEC universal

²² 47 C.F.R. 69.104.

²³ Also, toll restriction does not prevent the customers from reaching a long distance service through local numbers, established exclusively for the purpose, and entering a PIN number.

service costs and telecommunication prices do not increase as a result of the proposed reversal of the longstanding disconnection policy. Assuming that the ability to disconnect provides a significant competitive advantage over billing and collection competitors, which SWBT denies,²⁴ the beneficiaries of this policy have been the vast majority of end-users who enjoy prices reflecting the resultant lower costs and expenses. Those paying end-users will pick up the increased tab caused by any Commission policy change. The Commission should design universal service policy to achieve universal service goals, and not unrelated objectives in other markets.

Both Teleport Communications Group and MCI Communications Corporation submitted comments addressing issues raised in part in a concurrent Commission docket.²⁵ Eligibility for universal service support is not being addressed in this proceeding, and any comments on the subject are thus misplaced. Eligibility should be addressed in a comprehensive universal service proceeding to resolve implicit support issues.

²⁴ Regulatory commissions have found that the disconnection ability does not confer a competitive advantage (*see, e.g., Texas*), and many IXCs have chosen to do their own billing and collection or have hired non-LEC third parties notwithstanding that ability.

²⁵ See Amendment of Part 36 of the Commission's Rules And Establishment of a Joint Board, CC Docket No. 80-286, Notice of Proposed Rulemaking and Notice of Inquiry, released July 13, 1995.

Earthcall Communications Corp. uses this proceeding to complain about Touchtone and toll restriction charges. Inasmuch as both of these services are offered from intrastate tariffs, this complaint is essentially one involving intrastate rate design and ratemaking. Any change to those rates must be pursued with the individual State commissions.

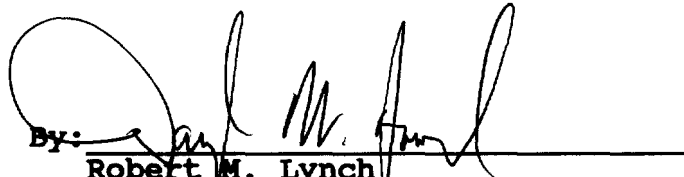
Finally, Consumer Action suggests creation of a national fund to support \$25 million in educational grants, which would be financed by an interstate call surcharge. To the extent that the Commission believes that such a fund would help fulfill its universal service objectives and is worth pursuing, the matter is more appropriately addressed in a comprehensive universal service support proceeding. Many States have already implemented programs to support the telecommunications needs of educational institutions (i.e., reduced rates, special tariffs). Absent a thorough review of the various programs already implemented in the States, such a fund might be over-inclusive, under-inclusive, or just plain unnecessary. To increase universal service support obligations with such a surcharge prior to resolving the pressing fundamental universal support issues which remain unaddressed would be unreasonable and counterproductive.

IX. CONCLUSION

The Commission should allow competition to continue to address the concerns raised in the NPRM, and should seek to harvest the full benefits by addressing universal service in a comprehensive proceeding. The Commission should continue to defer to the States and the LECs on the disconnection rule.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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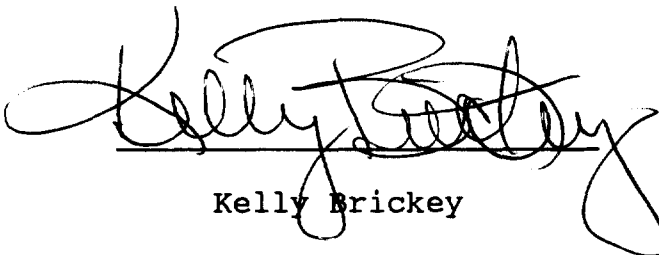
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November 14, 1995

CERTIFICATE OF SERVICE

I, Kelly Brickey, hereby certify that the foregoing "Reply Comments of Southwestern Bell Telephone Company", have been served this ²⁰~~14~~th day of November, 1995 to the Parties of Record.


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